

Request For Proposal

Production of Forensic Medicine Color Training DVD

RFP #1116TDA

Release Date:	May 24, 2011
Mandatory Bid Conference:	June 6, 2011 1:00pm to 3:00pm
Question/Answer Deadline:	June 10, 2011 5:00 pm PST
Question/Answer Responses:	June 13, 2011
Bid Responses Due:	June 17, 2011 by 5:00 pm PST
Estimated Award Date:	June 27, 2011
Buyer Contact:	Todd Adams Phone: 858-534-6700 Email: tdadams@ucsd.edu
Return bid responses via hard copy or email to: (Faxed responses will not be accepted)	Todd Adams UC San Diego 10280 N. Torrey Pines Rd Suite 350 La Jolla, CA 92037 Or tdadams@ucsd.edu

The Request for Proposal and any Addenda are available at: <http://www.bidsync.com>

VENDOR SIGNATURE, CERTIFICATIONS AND CONTACTS FORM
PRODUCTION OF FORENSIC MEDICINE COLOR TRAINING DVD
RFP#1116TDA

Bidder Instructions: This completed form must accompany your bid to avoid disqualification

General Conditions of a University Proposal

1. Deviations from specifications: Any deviation from the specifications shall be identified and fully described. The right is reserved to accept or reject quotations on each item separately, or as a whole, and to waive any irregularities in the quotation; irregularities may, however, render the quotation non-responsive.
2. Disclosure of Records/Confidentiality of Information: All materials submitted in response to this solicitation become a matter of public record and shall be regarded as public record. The Regents will recognize as confidential only those elements in each response, which are trade secrets as that term is defined in the law of California and which are clearly marked as "TRADE SECRET", "CONFIDENTIAL", or "PROPRIETARY." Vague designations and blanket statements regarding entire pages or documents are insufficient and shall not bind The Regents to protect the designated matter from disclosure. If a submittal contains any trade secrets that a Contractor does not want disclosed to the public or used by The Regents for any purpose other than evaluation of the Contractor's eligibility, each sheet of such information must be marked with the designation "CONFIDENTIAL." The Regents will notify the submitter of data so classified of any request to inspect such data so that the submitter will have an opportunity to establish that such information is exempt from the inspection in any proceeding to compel inspection.
3. The Regents Not Liable for Required Disclosure: The Regents shall not in any way be liable or responsible for the disclosure of any records if they are not plainly marked "TRADE SECRET", "CONFIDENTIAL", or "PROPRIETARY" or if disclosure is required by law or by any order of the court.
4. Signature Certification and Vendor Information: The undersigned, as an authorized official of Contractor, certifies that this submittal is made without collusion with any other person, firm or corporation; and in submitting a response to this request, has examined instructions, specifications and terms and conditions of the solicitation. Bidder proposes and agrees to execute and fully perform in accordance with the instructions, specifications, terms and conditions of this request and any resulting agreement

Signed _____

Date _____

Required Contractor Information

--

COMPANY NAME

CONTACT PERSON/TITLE

FED TAX ID

--

BUSINESS ADDRESS

STREET

CITY/STATE/ZIP

--

TELEPHONE

FAX

EMAIL

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PRODUCTION OF ADOLESCENT/PEDIATRIC FORENSIC MEDICAL EXAMINATION VIDEO
RFP#1116TDA

1. INTRODUCTION

The California Clinical Forensic Medical Training Center (CCFMTC) trains clinicians to perform comprehensive examinations that will yield information essential to law enforcement, criminal justice and social services agencies. Integration of a broad range of clinical and research expertise ensures that participants gain a comprehensive, authoritative training foundation in each of our program domains. CCFMTC is managed by the University of California in partnership with the Chadwick Center for Children and Families, and receives funding from California Emergency Management Agency (CalEMA).

CCFMTC is tasked with producing an Adolescent/Pediatric Forensic Medical Examination Video. The goal for this video is twofold. First, it will replace a current stand and deliver 1-hour-long module in the current course (28 hours) that trains health care providers to medically evaluate child and adolescent victims of sexual abuse and assault. Second, it can be a stand-alone video that addresses recommended examination techniques.

2. SERVICE SPECIFICATIONS AND SCOPE OF WORK

A. Contractor shall create a 30 minute (approximate) color training DVD in high definition. See attached Proposed Video Plan (Attachment 1) for details, although this may be adjusted based on feedback during the bidders conference and any negotiations. The training DVD will be presented in continuous run and chaptered formats. This DVD must be of marketable quality for anticipated statewide and national distribution. The video will use actors as well as video footage some of which already exists (close up video) and some of which will need to be filmed (macro video). The video will also use a few slides from an existing power point presentation as well as still close-up photos. Filming location will need to be determined (hospital vs. studio). Course director (Marilyn Kaufhold, MD) will be available at all phases of the project to coordinate those details and CCFMTC will provide other medical experts.

B. The contractor will:

- 1) Finalize the script with and prepared by the course director.
- 2) Cast the DVD with professionals from the field and/or professional actors in principal speaking roles. The course director and project director have final casting approval.
- 3) Plan for and use animation for a portion of the actual examination
- 4) Provide all equipment and facilities necessary for pre-production, production, and post-production activities.
- 5) Provide a timeline with clearly identified project benchmarks tied to pre-production, production, and post-production
- 6) Submit examples of vendor's work on compatible projects

C. Development of the project will take place in distinct phases

- 1) Phase 1- Planning for the video (working with course director)
- 2) Phase 2- Script writing/finalization
- 3) Phase 3- Logistics (location, actor selection, etc.)
- 4) Phase 4- Filming
 - i. utilization of professional medical personnel in the DVD regarding approaches to the child
 - ii. interviewing of the child
 - iii. possible animation of the a portion of the examination

- iv. incorporating existing video footage of close up examination process, power point slides, and photographs that will be provided
- 5) Phase 5-final editing of the DVD
- 6) Phase 6- Packaging (determining photos and information for DVD cover) and distribution

D. Deliverables and Payment

- 1) July 2011: Phase 1-3 including but not limited to planning meetings, data gathering, script finalization, actor selection, acquiring equipment and facilities for all phases of production, selecting necessary project personnel, and all other pre-production activities, etc.
- 2) August 2011: Phase 4-6 including but not limited to shooting video, incorporating existing materials, post-production narration, contracting/purchasing music rights, DVD authoring and manufacturing, delivery, and all other production and post-production activities.
- 3) Payments: Progress payments will be made at 25% of the total award at the following points in production:
 - i. Approved Script
 - ii. Begin Principal Shooting
 - iii. Begin Editing
 - iv. Final Product delivered and approved

3. RFP INFORMATION AND DEADLINES

A. RFP Release Date: May 24, 2011

B. Award Ceiling: \$40,000

C. Mandatory Bid Conference:

Date: June 6, 2011
 Time: 1:00pm to 3:00pm
 Location: Physicians Medical Center
 7910 Frost Street, Suite 300
 San Diego, CA 92123
 RSVP to: Todd Adams tdadams@ucsd.edu

D. Question/Answer Deadline

- 1) Submit questions to buyer by: June 10, 2011 5pm PST
- 2) Answers will be posted by: June 13, 2011

E. RFP Response Deadline: June 17, 2011 at 5 pm PST

F. Award Notification: June 27, 2011

G. Project Commencement Date: July 1, 2011

H. Project Completion Date: September 30, 2011

4. COMMUNICATIONS REGARDING THIS RFP

For all questions relating to this RFP please contact Todd Adams at tdadams@ucsd.edu or 858-534-6700. Please include the RFP number/name in any email or phone message to more quickly respond to your inquiry. All inquiries must be received by the Question and Answer Deadline above. Individual questions will not be answered directly to submitter. All questions submitted shall be responded to as an addendum to the RFP. The addendum will be posted on the

BidSync website at <http://www.bidsync.com>. The identity of the submitter of any particular question will not be disclosed

5. RFP ADDENDUM

The University may modify the RFP prior to the date set for its receipt of quotation by issuing bid addenda. Addenda will be clearly marked as such and only issued by the University of California San Diego through BidSync. Each addendum will be numbered consecutively and will become part of this RFP. Any Contractor who fails to receive such addenda shall not be relieved of any obligation under this quotation as submitted. No oral or written statements made by University personnel or course director shall be considered as an addendum to this RFP unless the statements are contained in a written document identified as written addenda to this RFP.

6. REQUIRED SUBMITTALS

- A. Respondents must submit their information in the format set forth in Attachment 2. Proposals may be delivered via hard copy or email.
- B. Include a completed, signed "Signature, Certifications, and Contacts form" (page 2 of this RFP document)

7. INSTRUCTIONS FOR SUBMITTING PROPOSALS

The proposal, containing the items described in section 6 above, (via hard copy and/or electronic files) must be received on or before **June 17, 2011 by 5:00 p.m. PST**, at the address given on the cover of this RFP. Late proposals will not be accepted. Information submitted via fax will not be accepted. The University strongly encourages respondents to submit via electronic means or hard copies that are printed double sided to conserve paper.

8. EVALUATION AND CONTRACT AWARD

- A. This solicitation, the evaluation of proposals, and the award of any resulting contract shall be made in conformance with the applicable University policies and State of California law. University reserves the right to withdraw this RFP at any time. All documents submitted to the University on behalf of this RFP will become the exclusive property of the University and will not be returned.
- B. Any contract resulting from this RFP will be awarded to the respondent whose proposal, in the opinion of the University and source selection team, offers the greatest benefit to the University when considering the total value to be delivered, including, but not limited to, the quality of professional services offered.
- C. Any Contract resulting from this RFP will be awarded only if the project cost is reasonable and within the University's funding allotment
- D. University will form a source selection team consisting of University representatives including, but not limited to, the Project Director, Course Director, Program Manager, Administrative Director, Grant Coordinator, Content Expert, and additional technical experts as needed, to determine the effectiveness of the proposal in meeting project requirements. The team may seek clarification on parts of a bidder's submission, but will not accept missing information from this RFP after the submission date.
- E. Factors that will be used to evaluate information include, but are not limited, to achieved results with projects of similar nature, size and complexity; respondent qualifications and expertise, expertise of personnel identified, resources available, timeline, cost, and respondent's ability to meet the needs of the project.
- F. University reserves the right to reject any or all responses, make one award, multiple awards or no awards at the University's sole discretion. University reserves the right to award an opportunity to negotiate an agreement after reviewing, evaluating and comparing all responses to this request and oral presentations, if conducted. Following selection,

University will negotiate exclusively with the selected respondent regarding specific tasks, costs, terms and conditions.

- G. If during the negotiations, University determines at its sole discretion that a satisfactory agreement is not possible or is unlikely, University may end negotiations and enter into negotiations with another respondent or pursue other alternatives, whichever is in the best interest of the University and the project.
- H. Any contract awarded pursuant to this RFP will incorporate the requirements and specifications contained in the RFP as well as the contents of the bidder's proposal as accepted by University.
- I. Any Contract(s) resulting from this solicitation shall be awarded to the bidder who demonstrates they are responsive, responsible and provides the highest value for the lowest cost. The highest value Proposal will be determined on a cost-per-quality point (CPQP) basis.
- J. Before bids are evaluated using the cost-per-quality point system, the bids must be considered responsive. Responsive bids are ones that respond adequately to all required sections of the RFP within the required timeframes.
- K. Once a bid is determined to be responsive, a Cost per Quality Point determination will be made as follows:
 - a. A team of subject matter experts will score all responsive bids based on the bidder's responses in Attachment 2.
 - b. The Net Total Cost will then be divided by the total quality point score to determine the lowest cost per quality point score for each proposal.
 - c. The following formula will be used to compute the Proposer's cost-per-quality point score:

$$\frac{\text{Net Total Cost}}{\text{Total Quality Points}} = \text{Cost per quality point}$$

- L. The bidder that receives the lowest cost-per-quality point score will be declared the Apparent Successful Bidder (ASB) and given the opportunity to finalize a Contract with the University after the ASB has been reviewed to determine it is a responsible bidder. If, however, the University is unable to reach agreement with the ASB, the University reserves the right to cease working with that bidder and to commence working with the bidder having the next lowest cost-per-quality point score, or to reject all bids.
- M. Determination of Responsibility: After the ASB and ranking of all bidders has been determined, the ASB will be reviewed to determine if the ASB is responsible. Bidder will be determined as Responsible through an evaluation of their Financial Stability and References.
- N. In addition to the information required above, UC may request additional information either from the bidder or others, and may utilize site visits, bidder presentations, and reference checks to verify the bidder's ability to successfully meet the requirements of this RFP. The University reserves the right to investigate the quality of the work performed by the bidder on work similar to that included herein.
- O. This review will only be conducted after the bids have been ranked and will be done on the top ranked bidder. If this bidder is considered responsible, no further review would be needed and the bidder would be considered responsible and enter into contract with the University. If the bidder was deemed non-responsible, the bidder will have three business days after notification to submit evidence that adequately refutes the original finding of the evaluation team. If the original finding is sustained, the bidder will be considered non-responsible and the next ranked bidder will be reviewed in like manner as the prior. The University reserves the right to reject all bidders for lack of responsibility.

9. PROPOSAL PREPARATION COSTS

All labor, materials and miscellaneous costs incurred and expended by a participating bidder in order to respond, produce and perform the submittal requirements of this RFP shall be borne

entirely by the individual bidder. In responding to the RFP, the participating bidder agrees that it will indemnify and hold harmless University against any charges, costs or claims that may arise as a result of their participation in this RFP.

10. CONTRACT TERM

The term of the contract is projected to begin July 1, 2011 and extend until September 30, 2011. The University reserves the sole right to renew or extend the agreement for up to 1 additional year based on the same terms and conditions, depending on market conditions, University needs, satisfactory performance and funding availability

11. AUDIT REQUIREMENTS

Any agreement resulting from this RFP shall be subject to examination and audit by the University of California and the State of California for a period of five (5) years after final payment. The examination and audit shall be confined to those matters connected with the performance of the agreement, including, but not limited, to the costs of administering the agreement.

12. MARKETING REFERENCES

The successful bidder shall be prohibited from making any reference to University, in any literature, promotional material, brochures, or sales presentations, without prior written approval from the University.

13. UNIVERSITY OF CALIFORNIA TERMS AND CONDITIONS

The University of California Standard Appendix A Terms and Conditions shall be incorporated into the agreement resulting from this RFP; see Attachment 3.

14. OWNERSHIP OF WORK PRODUCT

Ownership of any work developed under this order, and all right title and interest therein shall vest in the Regents of the University of California. This includes any and all work materials, draft plans, preliminary analyses, and all other work materials created by the contractor for this contract. In order to effectuate the foregoing, it is expressly understood and acknowledged that the work shall be deemed to be a work made for hire under the U.S copyright laws. In the event that the work is determined by a court or competent jurisdiction not to be a work made for hire under the U.S. copyright laws, this agreement shall operate as an irrevocable assignment by the successful bidder/vendor to the Regents of the University of California of the copyright in the work, including all right, title and interest in perpetuity

ATTACHMENT 1- PROPOSED PEDIATRIC VIDEO PLAN

Macro video Montage Close-up stills Close-up video Slides from module

Section Title	Description/Images	Content
Introduction	- CCFMTC Logo and credits - Montage of children and teens with brief voiceover explaining that when children who have been sexually abused are brought for a medical forensic exam, the examiner needs to understand the specific goals of the exam under these circumstances - Fade to examiner listing objectives - Disclaimers: what this video is not	Goal: To provide participants with an understanding of standard examination techniques to use in conducting a forensic examination on a sexually victimized child or adolescent to ensure completeness of findings and to minimize patient discomfort. Objectives: - q Remind medical providers that patient's medical stability must be established before beginning the exam - q Discuss styles of approaching children and adolescents that facilitate their cooperation with the physical examination - q List examination techniques that lead to good visualization of anogenital injuries - q List potentially painful examination practices to avoid Disclaimers: This video is not intended to provide in-depth instruction in... • How to take a history from children or teens • How to collect clothing • How to collect other evidence • Normal anatomy • Injury findings These subjects are covered in other modules of the Pediatric SAFE training
Prepubertal child: Before the exam	- Child and parent actors being shown to exam room - Ht/wt/vital signs fade to slides of conditions that constitute medical instability - Examiner reassuring pt exam is not difficult - Pt, parent asking questions and examiner answering	- Ensuring the patient is medically stable - Preparing patient for exam - Medically unstable: slides from module. If medically unstable, need to obtain ED consultation - Q/A: Presence of support person, no intravaginal instrumentation; no shots; photo consent; exam consent
Prepubertal child: Building rapport and general exam	- Examiner going through medical history, involving parent/child - Respecting child's wish not to undress - Having young child sit on mother's lap on exam table - General examination	- History of event not obtained in front of the child but from police or parent/LG away from child overhearing - Medical history taking as rapport-building - Exam on parent's lap for very young child - Managing child who does not want to undress or take off underwear - Gentle general exam builds trust in examiner before genital exam

		• Important to avoid having child begin crying; backing off before crying begins • Don't hold child down; exceptions
Prepubertal child: Genital exam	• Child actor (animated?) showing supine and knee chest positions and examiner assisting the child to get in the necessary positions • Close up diagrams and still pictures followed by video of genitalia showing multimethod techniques • Review of genital parts • Anal exam	• Result of rapport building is cooperative patient; best exam is when child is relaxed • Value of multimethod techniques is good visualization of all genital structures • Necessary to be methodical for completeness
Prepubertal child: photography – still or video	• Several examples of still and video of different ages and normal/abnormal exams (e.g. genital images of narrow hymen, cleft, mound)	• What constitutes acceptable/ideal photodocumentation • Value of video vs. still images
Prepubertal child: Adjunct examination techniques	• Video and still examples of use of water and change of position (genital images) • Iatrogenic PF laceration from excessive traction.	• Important to see well but not traumatize the patient • What to avoid. Need to document iatrogenic injury
Adolescent: Building rapport	• Teen actor being shown to exam room • Examiner obtaining consent; explaining exam, including speculum exam • Patient asks questions, examiner answers	• Issues of trust, confidentiality, choices and consent. • History taking as rapport building • General exam as rapport building
Adolescent: Genital exam	• Teen actor showing positions (?cartoonized) via video and multimethod techniques • Genital images (stills followed by video) illustrating view in various positions (e.g. redundant hymen, lateral clefts w/ injury, anus w/injury in folds)	• What constitutes acceptable/ideal photodocumentation. • Brief review of appearance of estrogenized genitalia vs. prepubertal
Adolescent: Adjunct exam techniques	• Genital images (pref video) showing use of small and large swabs. • Macro and close up of speculum insertion, anoscopy, toluidine blue dye.	• Important to see well but not traumatize the patient • Indications for adjunct exam techniques • Images used to point out normal and abnormal
Adolescent: Concluding the exam	• Examiner tells teen patient the exam is finished • Thanks patient for cooperation • Invites patient to get dressed and provides privacy • States she will meet with her in a few minutes to review findings, answer questions and	• Closure for patient and continuation of rapport building • Examiner will cover STD issues (confirming nature of exposure, tests, prophylaxis), exam findings, post coital contraception, follow up, referrals for counseling and advocacy(examiner will not actually

	make recommendations	do this on video) • Answers patient questions
Prepubertal child: Concluding the exam	• Examiner tells patient the exam is finished • Thanks patient for cooperation in front of support person • Advises patient may get dressed • Advises will meet with child/parent in a few minutes to review findings, answer questions and make recommendations	• Closure for patient and continuation of rapport building • Examiner will cover STD issues (confirming nature of exposure, tests, prophylaxis), exam findings, follow up, referrals for counseling and possibility of forensic interview if this has not already occurred(examiner will not actually do this on video) • Answers patient questions
Conclusion	• Examiner summarizes goals and objectives • Montage of child/teen/parent sitting w/ examiner, getting written recommendations, saying good bye and leaving the examining center	• Need for training and experience to develop good exam skills which contribute to good legal and therapeutic outcome

Actors: Prepubertal children (toddler and 5-8 y/o), teen
Professional: physician
Script will be prepared by course director prior to filming.

ATTACHMENT 2- RFP RESPONSE FORMAT

Please submit RFP responses in the following format, responding to each item in the order presented. The University recommends responding in open text format directly below each question or numbered item, without changing any of the identifying headers, letters or numbers.

A. COMPANY PROFILE

1. Provide an introduction and general description of your company's background, the nature of the business activities performed by the company, and your company's experience in providing services of similar size and scope to those requested in section 1, "Introduction" of this RFP.
2. Please provide a list of the location(s) where this project would be managed and completed.
3. Can your company satisfy all University requirements as stated in the RFP? Please provide a statement detailing your company's ability to that affect.

B. PERSONNEL

Identify key personnel within the organization and on this project. Provide resume(s) for the person or persons assigned to this project detailing their background, training and experience. Please also describe each person's team roles and responsibilities for the project as described in the RFP

C. OUTLINE PROPOSED SERVICES AND METHODOLOGY

Please provide a detailed description of the approach to performing the services described in this RFP in 5 pages or less including at a minimum.

- a statement detailing your company's ability to provide all services as set forth in this RFP
- a list of locations where this project would be managed and completed
- sources for and selection of actors
- script writing
- the use of medical/technical experts
- production methods and support
- editing
- closed captioning options
- final deliverables
- packaging and delivery

D. EXAMPLES OF DELIVERED PROJECTS

Attach at least three examples of similar programs implemented during the last twelve to twenty-four months for projects of similar nature, size and complexity (**please attach no more than a 5 minute video excerpt/sample or PowerPoint slide show**)

- 1.
- 2.
- 3.

E. CLIENT REFERENCES

Provide five references for projects of similar nature, size and complexity. Each reference must include the clients name, complete address, telephone number, contact person involved in day-to-day oversight/management of the task, and a brief description of the project.

- 1.
- 2.
- 3.
- 4.
- 5.

F. COSTS AND BUDGET/BUDGET NARRATIVE

Provide a full, detailed pricing proposal encompassing the all activities and deliverables of the project and a budget narrative.

G. PRODUCTION SCHEDULE

Use the outline below to complete a detailed timeline for each task and deliverable adding rows or columns as necessary

Deliverable	Timeline/Date
1.	
2.	
3.	
4.	
5.	

H. INSURANCE

Please provide proof of insurance to the levels in Article 17 of Attachment 3.

ATTACHMENT 3 – UC Appendix A terms

ARTICLE 1 - The materials, supplies or services covered by this order shall be furnished by Seller subject to all the terms and conditions set forth in this order including the following, which Seller, in accepting this order, agrees to be bound by and to comply with in all particulars and no other terms or conditions shall be binding upon the parties unless hereafter accepted by them in writing. Written acceptance or shipment of all or any portion of the materials or supplies, or the performance of all or any portion of the services, covered by this order shall constitute unqualified acceptance of all its terms and conditions. The terms of any proposal referred to in this order are included and made a part of the order only to the extent it specifies the materials, supplies, or services ordered, the price therefor, and the delivery thereof, and then only to the extent that such terms are consistent with the terms and conditions of this order.

ARTICLE 2 - INSPECTION. The services, materials and supplies furnished shall be exactly as specified in this order free from all defects in Seller's performance, design, workmanship and materials, and, except as otherwise provided in this order, shall be subject to inspection and test by University at all times and places. If, prior to final acceptance, any services and any materials and supplies furnished therewith are found to be incomplete, or not as specified, University may reject them, require Seller to correct them without charge, or require delivery of such materials, supplies, or services at a reduction in price which is equitable under the circumstances. If Seller is unable or refuses to correct such items within a time deemed reasonable by University, University may terminate the order in whole or in part. Seller shall bear all risks as to rejected services and, in addition to any costs for which Seller may become liable to University under other provisions of this order, shall reimburse University for all transportation costs, other related costs incurred, or payments to Seller in accordance with the terms of this order for unaccepted services and materials and supplies incidental thereto. Notwithstanding final acceptance and payment, Seller shall be liable for latent defects, fraud or such gross mistakes as amount to fraud.

ARTICLE 3 - CHANGES. University may make changes within the general scope of this order in drawings and specifications for specially manufactured supplies, place of delivery, method of shipment or packing of the order by giving notice to Seller and subsequently confirming such changes in writing. If such changes affect the cost of or the time required for performance of this order, an equitable adjustment in the price or delivery or both shall be made. No change by Seller shall be allowed without written approval of University. Any claim of Seller for an adjustment under this Article must be made in writing within thirty (30) days from the date of receipt by Seller of notification of such change unless University waives this condition in writing. Nothing in this Article shall excuse Seller from proceeding with performance of the order as changed hereunder.

ARTICLE 4 - TERMINATION

A. University may, by written notice stating the extent and effective date, cancel and/or terminate this order for convenience in whole or in part, at any time. University shall pay Seller as full compensation for performance until such termination:

(1) the unit or pro rata order price for the performed and accepted portion; and

(2) a reasonable amount, not otherwise recoverable from other sources by Seller as approved by University, with respect to the unperformed or unaccepted portion of this order, provided compensation hereunder shall in no event exceed the total order price.

B. University may by written notice terminate this order for Seller's default, in whole or in part, at any time, if Seller refuses or fails to comply with the provisions of this order, or so fails to make progress as to endanger performance and does not cure such failure within a reasonable period of time, or fails to perform the services within the time specified or any written extension thereof. In such event, University may purchase or otherwise secure services and, except as otherwise provided herein, Seller shall be liable to University for any excess costs occasioned University thereby. If, after notice of termination for default, University determines that the Seller was not in default or that the failure to perform this order was due to causes beyond the control and without the fault or negligence of Seller (including, but not restricted to, acts of God or of the public enemy, acts of University, acts of Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, and delays of a subcontractor or supplier due to such causes and without the fault or negligence of the subcontractor or supplier), termination shall be deemed for the convenience of University, unless University shall determine that the services covered by this order were obtainable by Seller from other sources in sufficient time to meet the required performance schedule.

C. If University determines that Seller has been delayed in the work due to causes beyond the control and without the fault or negligence of Seller, University may extend the time for completion of the work called for by this order, when promptly applied for in writing by Seller; any extension granted shall be effective only if given in writing. If such delay is due to failure of University, not caused or contributed to by Seller, to perform services or deliver property in accordance with the terms of the order, the time and price of the order shall be subject to change under the Changes Article. Sole remedy of Seller in event of delay by failure of University to perform shall, however, be limited to any money actually and necessarily expended in the work during the period of delay, solely by reason of the delay. No allowance will be made for anticipated profits.

D. The rights and remedies of University provided in this Article shall not be exclusive and are in addition to any other rights and remedies provided by law or under this order.

E. As used in this Article, the word "Seller" includes Seller and its suppliers at any tier.

ARTICLE 5 - LIABILITY FOR UNIVERSITY - FURNISHED PROPERTY. Seller assumes complete liability for any tooling, articles or material furnished by University to Seller in connection with this order and Seller agrees to pay for all such tooling, articles or material damaged or spoiled by it or not otherwise accounted for to University's satisfaction. The furnishing to Seller of any tooling, articles, or material in connection with this order shall not, unless otherwise expressly provided, be construed to vest title thereto in Seller.

ARTICLE 6 - TITLE. Title to the material and supplies purchased hereunder shall pass directly from Seller to University at the f.o.b. point shown, or as otherwise specified in this order, subject to the right of University to reject upon inspection.

ARTICLE 7 - PAYMENT, EXTRA CHARGES, DRAFTS. Seller shall be paid, upon submission of acceptable invoices, for materials and supplies delivered and accepted or services rendered and accepted. University will not pay cartage, shipping, packaging or boxing expenses, unless specified in this order. Drafts will not be honored. Invoices must be accompanied by shipping documents or photocopies of such, if transportation is payable and charged as a separate item.

ARTICLE 8 - CHARACTER OF SERVICES. Seller, as an independent contractor, shall furnish all equipment, personnel and material sufficient to provide the services expeditiously and efficiently during as many hours per shift and shifts per week and at such locations as the University may so require and designate.

ARTICLE 9 - FORCED, CONVICT, AND INDENTURED LABOR

A. By accepting this order, Seller hereby certifies that no foreign-made equipment, materials, or supplies furnished to the University pursuant to this order will be produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction.

B. Any Seller contracting with the University who knew or should have known that the foreign-made equipment, materials, or supplies furnished to the University were produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction, when entering into a contract pursuant to the above, may have any or all of the following sanctions imposed:

- (1.) The contract under which the prohibited equipment, materials, or supplies were provided may be voided at the option of the University.
- (2.) Seller may be removed from consideration for University contracts for a period not to exceed 360 days.

ARTICLE 10 - INDEMNITY.

A. General. Seller shall defend, indemnify, and hold harmless University, its officers, employees, and agents, from and against all losses, expenses (including attorneys' fees), damages, and liabilities of any kind resulting from or arising out of this agreement and/or Seller's performance hereunder, provided such losses, expenses, damages and liabilities are due or claimed to be due to the negligent or willful acts or omissions of Seller, its officers, employees, agents, subcontractors, or anyone directly or indirectly employed by them, or any person or persons under Seller's direction and control.

B. Proprietary Rights. Seller shall indemnify, defend, and hold harmless University, its officers, agents, and employees against all losses, damages, liabilities, costs, and expenses (including but not limited to attorneys' fees) resulting from any judgment or proceeding in which it is determined, or any settlement agreement arising out of the allegation, that Seller's furnishing or supplying University with parts, goods, components, programs, practices, or methods under this order or University's use of such parts, goods, components, programs, practices, or methods supplied by Seller under this order constitutes an infringement of any patent, copyright, trademark, trade name, trade secret, or other proprietary or contractual right of any third party. The foregoing shall not apply unless University has informed Seller as soon as practicable of the suit or action alleging such infringement. Seller shall not settle such suit or action without the consent of University. University retains the right to participate in the defense against any such suit or action.

C. Products. Seller shall fully indemnify, defend, and hold harmless University from and against any and all claim, action, and liability, for injury, death, and property damage, arising out of the dispensing or use of any of Seller's product provided under authorized University orders. In addition to the liability imposed by law on the Seller for damage or injury (including death) to persons or property by reason of the negligence, willful acts or omissions, or strict liability of the Seller or his agents, which liability is not impaired or otherwise affected hereby, the Seller hereby assumes liability for and agrees to save University harmless and indemnify it from every expense, liability or payment by reason of any damage or injury (including death) to persons or property suffered or claimed to have been suffered through any act or omission of the Seller.

The University agrees to provide Seller with prompt notice of any such claims and to permit Seller to defend any claim or suit, and that it will cooperate fully in such defense.

ARTICLE 11 - DECLARED VALUATION OF SHIPMENTS. Except as otherwise provided on the face of this order, all shipments by Seller under this order for University's account shall be made at the maximum declared value applicable to the lowest transportation rate or classification and the bill of lading shall so note.

ARTICLE 12 - WARRANTY. Seller agrees that the supplies or services furnished under this order shall be covered by the most favorable commercial warranties the Seller gives to any customer for the same or substantially similar supplies or services, or such other more favorable warranties as specified in this order. The rights and remedies so provided are in addition to and do not limit any rights afforded to University by any other article of this order. Such warranties will be effective notwithstanding prior inspection and/or acceptance of the services or supplies by the University.

ARTICLE 13 - ASSIGNMENT AND SUBCONTRACTING. This order is assignable by University. Except as to any payment due hereunder, this order may not be assigned or subcontracted by Seller without written approval of University. In case such consent is given, it shall not relieve Seller from any of the obligations of this Agreement and any transferee or subcontractor shall be considered the agent of Seller and, as between the parties hereto, Seller shall be and remain liable as if no such transfer or subcontracting had been made.

ARTICLE 14 - EQUAL OPPORTUNITY AFFIRMATIVE ACTION. Seller shall not maintain or provide racially segregated facilities for employees at any establishment under its control. Seller agrees to adhere to the requirements set forth in Executive Orders 11246 and 11375, and with respect to activities occurring in the State of California, to the California Fair Employment and Housing Act (Government Code section 12900 et seq.). Expressly, Seller shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, medical condition (as defined by California Code section 12925f)), marital status, age, physical and mental handicap in regard to any position for which the

employee or applicant for employment is qualified, or because he or she is a disabled veteran or veteran of the Vietnam era. Seller shall further specifically undertake affirmative action regarding the hiring, promotion and treatment of minority group persons, women, the handicapped, and disabled veterans and veterans of the Vietnam era. Seller shall communicate this policy in both English and Spanish to all persons concerned within its company, with outside recruiting services, and the minority community at large. Seller shall provide the University on request a breakdown of its labor force by groups, specifying the above characteristics within job categories, and shall discuss with the University its policies and practices relating to its affirmative action programs.

ARTICLE 15 - The clauses contained in the following paragraphs of the Federal Acquisition Regulations are incorporated by reference. The full text is available upon request:

FAR 52.222-04 Contract Work Hours and Safety Standards Act

FAR 52.222-26 Equal Opportunity

FAR 52.223-02 Clean Air and Water (If order exceeds \$100,000)

ARTICLE 16 - WORK ON UNIVERSITY OR GOVERNMENT PREMISES. If Seller's work under this order involves performance by Seller at University or United States Government owned sites or facilities, the following provisions shall apply:

A. Liens. Seller agrees that at any time upon request of University he will submit a sworn statement setting forth the work performed or material furnished by subcontractors, suppliers and materialmen, and the amount due and to become due to each, and that before the final payment called for hereunder, will if requested, submit to University a complete set of vouchers showing what payments have been made for materials and labor used in connection with the work called for hereunder.

Seller shall:

(1) Indemnify and hold harmless University from all claims, demands, causes of action or suits, of whatever nature, arising out of the services, labor and materials furnished by Seller or its subcontractors under this order, and from all laborers', materialmen's and mechanics' liens upon the real property upon which the work is located or any other property of University;

(2) Promptly notify University in writing, of any such claims, demands, causes of action, or suits brought to its attention. Seller shall forward with such notification copies of all pertinent papers received by Seller with respect to any such claims, demands, causes of action or suits and, at the request of University shall do all things and execute and deliver all appropriate documents and assignments in favor of University of all Seller's rights and claims growing out of such asserted claims as will enable University to protect its interest by litigation or otherwise. The final payment shall not be made until Seller, if required, shall deliver to University a complete release of all liens arising out of this order, or receipts in full in lieu thereof, as University may require, and if required in either case, an affidavit that as far as it has knowledge or information, the receipts include all the labor and materials for which a lien could be filed; but Seller may, if any subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to University to indemnify it against any claim by lien or otherwise. If any lien or claim remains unsatisfied after all payments are made, Seller shall refund to University all monies that the latter may be compelled to pay in discharging such lien or claim, including all costs and reasonable attorneys' fees.

B. Cleaning Up. Seller shall at all times keep University premises where the work is performed and adjoining premises free from accumulations of waste material or rubbish caused by its employees or work of any of its subcontractors, and, at the completion of the work; shall remove all rubbish from and about the building and all its and its subcontractors' tools, scaffolding, and surplus materials, and shall leave the work "broom clean" or its equivalent, unless more exactly specified. In case of dispute between Seller and the subcontractors employed on or about the structure or structures upon which the work is to be done, as herein provided, as to responsibility for the removal of the rubbish, or in case the same be not promptly removed as herein required, University may remove the rubbish and charge the cost to Seller.

C. Employees. Seller shall not employ on the work any unfit person or anyone not skilled in the work assigned to him or her, and shall devote only its best-qualified personnel to work under this order. Should University deem anyone employed on the work incompetent or unfit for his or her duties and so inform Seller, Seller shall immediately remove such person from work under this order and he or she shall not again, without written permission of University, be assigned to work under this order.

It is understood that if employees of University shall perform any acts for the purpose of discharging the responsibility undertaken by the Seller in this Article 15, whether requested to perform such acts by the Seller or not, such employees of the University while performing such acts shall be considered the agents and servants of the Seller subject to the exclusive control of the Seller.

D. Safety, Health and Fire Protection. Seller shall take all reasonable precautions in the performance of the work under this order to protect the health and safety of employees and members of the public and to minimize danger from all hazards to life and property, and shall comply with all health, safety, and fire protection regulations and requirements (including reporting requirements) of University. In the event that Seller fails to comply with said regulations or requirements of University, University may, without prejudice to any other legal or contractual rights of University, issue an order stopping all or any part of the work; thereafter a start order for resumption of work may be issued at the discretion of the University. Seller shall make no claim for extension of time or for compensation or damages by reason of or in connection with such work stoppage.

The safety of all persons employed by Seller and its subcontractors on University premises, or any other person who enters upon University premises for reasons relating to this order, shall be the sole responsibility of Seller. Seller shall at all times maintain good order among its employees and shall not

To the extent compliance is required, Seller shall comply with all University safety rules and regulations when on University premises.

Seller shall defend, indemnify, and hold the University, its officers, employees, and agents harmless from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages that are caused by or result from the negligent or intentional acts or omissions of Seller, its officers, agents, or employees.

A. Comprehensive or Commercial Form General Liability Insurance (contractual liability included) with limits as follows:

If the above insurance is written on a claims-made form, it shall continue for three years following termination of this Agreement. The insurance shall have a retroactive date of placement prior to or coinciding with the effective date of this Agreement.

(REQUIRED ONLY IF SELLER DRIVES ON UNIVERSITY PREMISES IN THE COURSE OF PERFORMING WORK FOR UNIVERSITY.)

D. Workers' Compensation as required by California State law.

- (1) Provide for thirty (30)-days advance written notice to the University of any modification, change, or cancellation of any of the above insurance coverage.
- (2) Indicate that The Regents of the University of California has been endorsed as an additional insured for the coverage referred to under a. and b. This provision shall only apply in proportion to and to the extent of the negligent acts or omissions of Seller, its officers, agents, or employees.
- (3) Include a provision that the coverage will be primary and will not participate with nor be excess over any valid and collectible insurance or program of self-insurance carried or maintained by the University.

ARTICLE 18 - PERMITS. Seller agrees to procure all necessary permits or licenses and abide by all applicable laws, regulations and ordinances of the United States and of the state, territory and political subdivision in which the work under this order is performed. Seller shall be liable for all damages and shall indemnify and save University harmless from and against all damages and liability which may arise out of failure of Seller to secure and pay for any such licenses or permits or to comply fully with any and all applicable laws, ordinances and regulations.

ARTICLE 19 - COOPERATION. Seller and its subcontractors, if any, shall cooperate with University and other vendors and contractors on the premises and shall so carry on their work that other cooperating vendors and contractors shall not be hindered, delayed or interfered with in the progress of their work, and so that all of such work shall be a finished and complete job of its kind.

ARTICLE 20 - WAIVER OF DEFAULT. Any failure of University at any time, or from time to time, to enforce or require the strict keeping and performance by Seller of any of the terms or conditions of this order shall not constitute a waiver by University of a breach of any such terms or conditions and shall not affect or impair such terms or conditions in any way, or the right of University at any time to avail itself of such remedies as it may have for any such breach or breaches of such terms or conditions.

ARTICLE 21 - TAXES. Seller shall pay all contributions, taxes and premiums payable under federal, state and local laws measured upon the payroll of employees engaged in the performance of work under this order, and all applicable sales, use, excise, transportation, privilege, occupational and other taxes applicable to materials and supplies furnished or work performed hereunder and shall save University harmless from liability for any such contributions, premiums, and taxes.

ARTICLE 22 - OTHER APPLICABLE LAWS. Any provision required to be included in a contract of this type by any applicable and valid federal, state or local law, ordinance, rule or regulations shall be deemed to be incorporated herein.

ARTICLE 23 - GOVERNING LAW. The law of the State of California shall control this Appendix and any document to which it is appended.